

Testimony of Nicholas A. Yanicelli
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April 15, 2015

Testimony in Opposition to SB 1039 – Creates general contractor joint liability for a subcontractor's employee's wages and workers compensation claims

Co-Chairs, Sen. Eric Coleman and Rep. William Tong, Vice Chair Paul Doyle, and Ranking Members Sen. John Kissel and Representative Rosa Rebimbas, and Members of the Judiciary Committee, thank you for the opportunity to submit testimony today in opposition to SB 1039. This outlandish bill is of the ilk that kills entrepreneurs and jobs in Connecticut. This is a perfect example of why CT is considered unfriendly to business. We urge you not to let this happen. We can and must do better!

SB1039 makes general contractors jointly liable for the wages and workers compensation of employees of subcontractors and all lower tier subcontractors. Just to be clear, this means that a homebuilder with a few employees would be jointly liable for the wages of a 40 employee kitchen appliance company, 37 employees of a flooring company, 25 employees of a closet shelving company, hundreds of employees of the dumpster/waste removal company and even the cabinet makers, plumbers and electricians and any other legitimate independent contractor that enters the construction site.

A good example of the absurdity of this new liability scheme would be to place it on homeowners or property owners who invite general contractors onto their site. Such a bill would never see the light of day.

This bill creates additional liability for the GC beyond any contracted amount for any subcontractor who fails to pay wages to his or her own employees. It applies to all construction work from home building to remodeling to the largest of commercial contracts. Most home builders are small businesses with between 1 to 10 employees, and a home builder GC contracts with as many as 25 subcontractors to build a home. Typically, the GC contracts with a sub to do a certain job and then pays the sub the contract amount. What the sub does with its payment is beyond the GC's control.

Making GCs jointly liable for a sub's employee's wages does not make sense, unless you are of the opinion that there is no such entity as a legitimate, independent contractor, which defies reality. GC's in Connecticut pay some of the highest WC insurance costs for contractors in the nation. We have limited knowledge about a sub-contractor's WC coverage for employees. We do require a trade license where applicable and a certificate of insurance at the time of the contract. Beyond that we have no control since a copy of a certificate is relevant only at a point in time and provides no guarantee to the GC that proper coverage is maintained by the subcontractor. Furthermore, SB 1039 creates liability where there's no legal relationship because a GC does not have a contractual relationship with sub-tier subcontractors namely the subs of a sub.

Every 100 new single family homes creates 334 new jobs, \$29.5 million in wages and \$4.7 million in taxes, fees and charges paid to the state and local governments in the 1st year alone. If a GC is held to be jointly liable for any and all subcontractors' employee's WC claims, it's an unpredictable expansion of the "primary employer" statute. SB 1039 will force GC's WC costs much higher.

We can help turn things around, but GCs need government to recognize that CT's business regulations and land use policies constrain new home production, limits growth and jobs.

Please read this bill!

Please speak against and vote against this bill!

It is unrealistic at best.